

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

MYRNA I. JOHNSON,

Plaintiff,

vs.

FRED MEYER STORES, INC., a
Delaware corporation; and
JAIME SAN MIGUEL,

Defendants.

Case No. 1:04-cv-0008-RRB

ORDER RE PENDING MOTIONS

Defendants' Motion to Dismiss Jaime San Miguel, at Docket 137, is hereby **GRANTED**, with the understanding that the claim can be reinstated if it is subsequently determined on appeal that the conduct in question may be viewed as tortious.

Defendants' motion regarding jury instructions, at Docket 140, is hereby **DENIED**. Jury instructions will be addressed in due course.

Plaintiff's Motion to Strike, at Docket 140, is **DENIED in part and GRANTED in part**. The Court hopes to address the jury instruction question in the near future and will notify the parties as soon as they are completed. Jury instructions, though, are subject to modification at any time prior to the end of trial. The

parties should not expect, however, a dramatic change in instructions from that previously anticipated just before the matter was continued, which includes instructing on both the subjective and objective prongs of "the test" for breach of the covenant of good faith and fair dealing.

ENTERED this 30th day of April, 2008.

S/RALPH R. BEISTLINE
UNITED STATES DISTRICT JUDGE